

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

LORI BARNETTE,

Plaintiff,

v.

Case No: 6:23-cv-1463-WWB-LHP

KENESHA LEWIS, LIMITLESS
CAPITAL, LLC, OSCEOLA COUNTY
SHERIFF'S OFFICE and FLORIDA
HIGHWAY SAFETY AND MOTOR
VEHICLES,

Defendants

/Third Party Plaintiff,

FLORIDA HIGHWAY SAFETY AND
MOTOR VEHICLES,

Third Party
Plaintiff

ORDER

This cause came on for consideration without oral argument on the following
motion filed herein:

**MOTION: PLAINTIFF'S REPLY AND MOTION TO STRIKE
DEFENDANTS' AFFIRMATIVE DEFENSES FOR
FAILURE TO STATE A LEGAL DEFENSE UNDER
FED. R. CIV. P. 12(f) (Doc. No. 19)**

FILED: August 28, 2023

THEREON it is ORDERED that the motion is DENIED without prejudice.

The motion fails to comply with Local Rule 1.08 and the presiding District Judge's January 13, 2021 Standing Order. *See In re: Local Rule Amendments*, No. 6:21-mc-3-Orl-WWB, Doc. No. 1 (M.D. Fla. Jan. 13, 2021), *available at* <https://www.flmd.uscourts.gov/standing-order-judge-berger-revised-local-rules>. The motion also fails to comply with Local Rule 3.01(g). Further, the motion in substance includes "Plaintiff's General Reply to Defendants' Answer and Affirmative Defenses," which is unauthorized absent a Court Order. *See* Fed. R. Civ. P. 12(a)(1)(C). *See also* Fed. R. Civ. P. 7(a)(7).

Accordingly, the motion (Doc. No. 19) is **DENIED without prejudice**. Any renewed motion to strike must be filed within **seven (7) days** of the date of this Order. However, Plaintiff is cautioned that "motions to strike under Federal Rule of Civil Procedure 12(f) are decidedly disfavored and are generally time wasters for the Court and counsel." *Erdogam v. Suntime Country Club, Inc.*, No. 6:14-cv-1991-Orl-41DAB, 2015 WL 12838848, at *1 (M.D. Fla. Feb. 10, 2015). A motion to strike will ordinarily be granted only if the material sought to be stricken is insufficient as a matter of law. *Arthurs v. Glob. TPA LLC*, No. 6:14-cv-1209-Orl-40TBS, 2015 WL 13652716, at *1 (M.D. Fla. Feb. 6, 2015) (citations omitted). Accordingly, a renewed

motion to strike should be filed only if Plaintiff can establish that a particular affirmative defense has no possible relation to the controversy and may cause prejudice. See *Regions Bank v. Commonwealth Land Title Ins. Co.*, No. 11-23257-CIV, 2012 WL 5410609, at *1 (S.D. Fla. Nov. 6, 2012) (citing *Seibel v. Soc'y Lease, Inc.*, 969 F. Supp. 713, 714 (M.D. Fla. 1997)).

DONE and ORDERED in Orlando, Florida on August 29, 2023.



LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties